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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 08/951,635 | 10/17/1997 | MANABU KATO | 00684.003135.1 | 1809 |

5514 7590 10/18/2007
FITZPATRICK CELLA HARPER & SCINTO
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NEW YORK, NY 10112

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| EXAMINER |
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PHAN, JAMES

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| ART UNIT | PAPER NUMBER |
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2872

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| MAIL DATE | DELIVERY MODE |
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10/18/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 08/951,635 | Applicant(s) KATO, MANABU | |
| | Examiner James Phan | Art Unit 2872 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2007.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 61-115 is/are pending in the application.
4a) Of the above claim(s) 98-115 is/are withdrawn from consideration.
5) ☒ Claim(s) 61-97 is/are allowed.
6) ☐ Claim(s) _____ is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>7/10/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/9/07 has been entered.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 7/10/07 has been considered by the examiner.

Statement Of Substance Of Interview

The statement of substance of interview filed 8/9/07 is partially incorrect. During the interview conducted on July 2, 2007, the allowed claims 79-97 have never been discussed; thus, applicant's statement "the Examiner is in tentative agreement that claims 61-97 interfere with Takada, et al.'s claims" is partially incorrect. Claims 79-97 do not interfere with Takada, et al.'s claims because the feature "wherein each of the two surfaces is non-symmetrical with respect to the optical axis." recited in claims 79-81, 88 and 91, lines 6-7, does not necessarily means the same thing as "wherein the curvatures in the main and sub-scanning directions are non-symmetrical with respect to the optical axis" as recited in Takada, et al.'s claim 1, last three lines.

Allowable Subject Matter

Claims 61-97 are allowed.

Interference

Applicant has suggested an interference pursuant to 37 CFR 41.202(a) in a communication filed 3/14/01.

Claims 61-63, 70 and 73 have been amended in a communication filed on 7/10/07 to provoke interference. Applicant failed to provide a claim chart showing the written description for each claim in the applicant's specification. See 37 CFR 41.202(a)(5) and MPEP § 2304.02(d).

Applicant failed to (1) propose one or more counts, and/or (2) show how the amended claims correspond to one or more counts. See 37 CFR 41.202(a)(2) and MPEP § 2304.02(b).

Applicant is given ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing date of this communication to correct the deficiency(ies). THE PROVISIONS OF 37 CFR 1.136 DO NOT APPLY TO THE TIME SPECIFIED IN THIS ACTION.

Conclusion

Applicant is suggested to cancel allowed non-interfering claims 79-97 and restricted claims 98-115 and file divisional application for the allowed non-interfering claims 79-97 and restricted claims 98-115 so that the issuance of at least allowed non-interfering claims 79-97 would not be delayed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Phan whose telephone number is (571) 272-2317. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen B. Stephone can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Phan/
James Phan
Primary Examiner
Art Unit 2872

JP
Oct. 2007